

STATE OF INDIANA)
) SS: IN KOSCIUSKO COUNTY CIRCUIT COURT
COUNTY OF KOSCIUSKO) CAUSE NO. 43C01-0802-PL-54

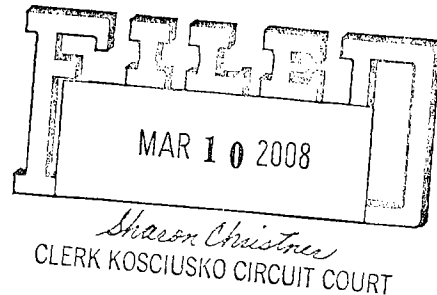
STATE OF INDIANA,

Plaintiff,

v.

STEPHEN E. SCHAADT, individually and
doing business as, Quality Auto of Warsaw, Inc.,

Defendant.



**MOTION TO STRIKE THE DEFENDANT'S
SECOND AFFIRMATIVE DEFENSE**

The Plaintiff, the State of Indiana, by Attorney General Steve Carter and Deputy Attorney General Mary Ann WehmueLLer, pursuant to Rule 12 of the Indiana Rules of Trial Procedure respectfully requests the Court Strike the Defendant, Stephen E. Schaadt's, Second Affirmative Defense. In support of its motion, the Plaintiff states:

1. On February 1, 2008, the Plaintiff filed its Complaint for Injunction, Consumer Restitution, Civil Penalties and Costs against the Defendant.
2. On or about February 25, 2007, the Defendant filed his Answer to the Complaint, which included two (2) affirmative defenses.
3. The State of Indiana requests the Court strike the Defendant's second affirmative defense for the reasons set forth below.
4. The Defendant's second affirmative defense states, "Plaintiff has failed to state a claim upon which relief may be granted as defendant was not provided with notice

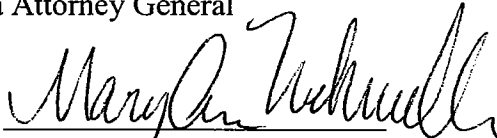
prior to the filing of this action.” The Court should strike this Defense as immaterial and impertinent, as it fails to controvert an essential element of the Plaintiff’s claims.

5. The Plaintiff’s Memorandum in support of its Motion is filed herewith.

WHEREFORE, the Plaintiff, the State of Indiana, respectfully requests the Court set this matter for hearing and order the Defendant’s affirmative defense number 2, stricken under Trial Rule 12(F) as an immaterial and impertinent defense that fails to controvert essential elements of the Plaintiff’s claims, and order all other just and proper relief.

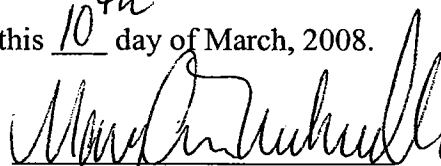
Respectfully submitted,

STEVE CARTER
Attorney No. 4150-64
Indiana Attorney General

by: 
Mary Ann Wehmüller
Deputy Attorney General
Attorney No. 15251-49A

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the above Motion was mailed by United States Mail, first class postage prepaid, to Karen T. Moses, Baker & Daniels, 111 E. Wayne St., Suite 800, Ft. Wayne, IN 46803, on this 10th day of March, 2008.


Mary Ann Wehmüller

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